UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,041	11/17/2003	Tsz Cheng	BOC9-2003-0036 (405)	2767

40987 7590 02/14/2007 AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188	**EXAMINER** TANK, ANDREW L

ART UNIT	PAPER NUMBER
2109	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
	10/715,041	CHENG ET AL.
Office Action Summary	Examiner	Art Unit	
	Andrew Tank	2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *07/2004*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   This action is in response to the original filing of November 17, 2003. Claims 1-21 are

pending and are considered below.

2.   Examiner's Note. The Applicant appears to be attempting to invoke 35 U.S.C. 112 6th

paragraph in Claims 13, 15-16, and 19-21 by using "means-plus-function" language. However,

the Examiner notes that the only "means" for performing these cited functions in the

specification appears to be computer program modules. While the claims pass the first test of the

three-prong test used to determine invocation of paragraph 6, since no other specific structural

limitations are disclosed in the specification, the claims do not meet the other tests of the three-

prong test. Therefore, 35 U.S.C. 112 6th paragraph has not been invoked when considering these

claims below.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

4.   Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing

to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. In line 2, it is unclear to which user "a user" is referring. The examiner will consider

"a user" to be the user using the receiving system.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 1-2, 6-12 13-14, and 18-21 are rejected under 35 U.S.C. 102(b) as being

anticipated by U.S. Patent 6,028,593 (**Rosenburg et al.**).

Claims 1 and 13: **Rosenburg et al.** disclose a method of communicating physical human

interactions over a communications network comprising:

detecting physical movement of a user (col 7 lines 13-28);

generating data specifying the physical movement (col 11 lines 52-67, col 12 lines

1-36, col 14 lines 46-63);

determining at least one action indicated by the data (col 15 lines 18-45);

transmitting the action over a communications network to a receiving system (col

47 lines 20-67, col 48 lines 1-18); and

simulating the action in the receiving system (col 47 lines 33-39).

Claims 2 and 14: **Rosenburg et al.** disclose the method of claim 1, wherein the receiving

system simulates the action by performing the action on a second user located at the

receiving system (col 48 lines 2-19).

Claims 6 and 18: **Rosenburg et al.** disclose the method of claim 1, wherein the data is

generated from at least one sensor configured to detect physical movement of the user

(col 14 lines 46-63).

Claims 7 and 19: **Rosenburg et al.** disclose the method of claim 1, said simulating step further comprising the step of activating at least one actuator to simulate the action on a user (col 15 lines 66-67, col 16 lines 1-11).

Claims 8 and 20: **Rosenburg et al.** disclose the method of claim 1, said simulating step further comprising the step of translating the action into instructions for activating at least one actuator; and activating the at least one actuator in accordance with the instructions (col 15 lines 66-67, col 16 lines 1-40).

Claims 9 and 21: **Rosenburg et al.** disclose the method of claim 1, further comprising:

    detecting physical movement of a second user (col 7 lines 13-28) in the receiving system (col 9 lines 66-67, col 10 lines 1-2 "multiple players.. networked host computers");

    generating data specifying the physical movement (col 11 lines 52-67, col 12 lines 1-36, col 14 lines 46-63) in the receiving system (col 9 lines 66-67, col 10 lines 1-2 "multiple players.. networked host computers");

    determining at least one action indicated by the data (col 15 lines 16-45);

    transmitting the action over a communications network to a sending system (col 47 lines 20-67, col 48 lines 1-18); and

    simulating the action in the sending system (col 47 lines 33-39).

Claim 10: **Rosenburg et al.** disclose a system for communicating physical human interactions over a communications network comprising:

    at least one sending sensor configured to detect physical movement of a first user (col 14 lines 46-63);

a sending message transmission module configured to receive data from said at

least one sending sensor and determine an intended action (col 15 lines 65-67, col

16 lines 1-40), said sending message transmission module further configured to

transmit the action to another system over a communications network (col 47

lines 20-67, col 48 lines 1-18);

a receiving message transmission module configured to receive the action over

the communications network (col 47 lines 20-67, col 48 lines 1-18), said receiving

message transmission module further configured to translate the action into

instructions for activating at least one actuator (col 15 lines 66-67, col 16 lines 1-

40); and

at least one receiving actuator configured to simulate the action on a second user

(col 15 lines 66-67, col 16 lines 1-40, col 47 lines 33-39).

Claim 11: **Rosenburg et al.** disclose the system of claim 10, further comprising at least

one sending actuator coupled with said sending message transmission module, said at

least one sending actuator configured to simulate, on the first user, actions originating in

said receiving message transmission module (col 9 lines 66-67, col 10 lines 1-2 "multiple

players.. networked host computers", and col 47 lines 20-67, col 48 lines 1-18 networked

system).

Claim 12: **Rosenburg et al.** disclose the system of claim 10 above, further comprising at

least one receiving sensor configured to detect physical movement of the second user,

wherein said at least one receiving sensor is communicatively linked with the receiving

message transmission module (col 9 lines 66-67, col 10 lines 1-2 "multiple players..

networked host computers", and col 47 lines 20-67, col 48 lines 1-18 networked system).

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   Claims 3-5, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over·

U.S. Patent 6,028,593 (**Rosenburg et al.**).

Claims 3 and 15: **Rosenburg et al.** disclose the method as in claim 1 above, but do not ·

specifically disclose converting the data to markup language formatted data. However,

Rosenburg et al. do disclose operating the method on host computers running the .

operating systems of "MS-DOS" or "Windows" (col 7 lines 45-47), as well as the host

computers being a "internet computer" (col 7 line 53), and allowing remote players to

interact over a computer network (col 47 line 24) such as the Internet/World Wide Web

(col 47 line 66). Therefore it would have been obvious to one of ordinary skill in the art

at the time of present invention to implement the computer methods as modules and to

convert them to a mark up language for Internet use. One would have been motivated to·

do this in order to use a standardized computer programming language, thereby avoiding

the cost and time involved with developing one's own programming language, as well as

to provide a programming language specifically developed for use with internet based applications.

Claims 4 and 16: **Rosenburg et al.** disclose the method as in claims 3 and 15 above, and further disclose identifying the action from the markup language formatted data in the receiving system (col 15 lines 18-45, col 47 lines 46-58).

Claims 5 and 17: **Rosenburg et al.** disclose the method as in claims 4 and 16 above, and wherein the markup language formatted data specifies at least one actuator movement to be implemented by the receiving system and an amount of force to be applied in the at least one actuator movement (col 15 lines 65-67, col 16 lines 1-40, col 47 lines 29-45).
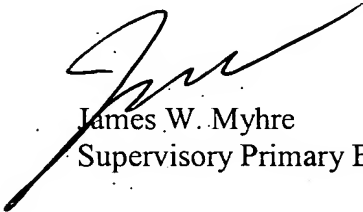
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Tank whose telephone number is 571-270-1692. The examiner can normally be reached on Mon - Fri (Alt. Fri Off) 0730-1500 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALT
February 6, 2007

James W. Myhre
Supervisory Primary Examiner